APPENDIX

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APPENDIX

1. TITLE I AND TITLE III, SECTION 303, OF THE NATIONAL INDUSTRIAL RECOVERY ACT (48 STAT. 195, U. S. C., SUPP. VII, TITLE 15, SEC. 701-711, APPROVED JUNE 16, 1933).

AN ACT

To encourage national industrial recovery, to foster fair competition, and to provide for the construction of certain useful public works, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—INDUSTRIAL RECOVERY

DECLARATION OF POLICY

SECTION 1. A national emergency productive of widespread unemployment and disorganization of industry, which burdens interstate and foreign commerce, affects the public welfare, and undermines the standards of living of the American people, is hereby declared to exist. It is hereby declared to be the policy of Congress to remove obstructions to the free flow of interstate and foreign commerce which tend to diminish the amount thereof; and to provide for the general welfare by promoting the organization of industry for the purpose of cooperative action among trade groups, to induce and maintain united action of labor and management under adequate governmental sanctions and supervision, to eliminate unfair competitive practices, to promote the fullest possible utilization of the present productive capacity of industries, to avoid undue restriction of production (except as may be temporarily required), to increase the consumption of industrial and agricultural products by increasing purchasing power, to reduce and relieve

unemployment, to improve standards of labor, and otherwise to rehabilitate industry and to conserve natural resources.

ADMINISTRATIVE AGENCIES

SEC. 2. (a) To effectuate the policy of this title, the President is hereby authorized to establish such agencies, to accept and utilize such voluntary and uncompensated services, to appoint, without regard to the provisions of the civil service laws, such officers and employees, and to utilize such Federal officers and employees, and, with the consent of the State, such State and local officers and employees, as he may find necessary, to prescribe their authorities, duties, responsibilities, and tenure, and, without regard to the Classification Act of 1923, as amended, to fix the compensation of any officers and employees so appointed.

(b) The President may delegate any of his functions and powers under this title to such officers, agents, and employees as he may designate or appoint, and may establish an industrial planning and research agency to aid in carrying out his functions under this title.

(c) This title shall cease to be in effect and any agencies established hereunder shall cease to exist at the expiration of two years after the date of enactment of this Act, or sooner if the President shall by proclamation or the Congress shall by joint resolution declare that the emergency recognized by section 1 has ended.

CODES OF FAIR COMPETITION

SEC. 3. (a) Upon the application to the President by one or more trade or industrial associations or groups, the President may approve a code or codes of fair competition for the trade or industry or subdivision thereof, represented by the applicant or applicants, if the President finds (1)

that such associations or groups impose no inequitable restrictions on admission to membership therein and are truly representative of such trades or industries or subdivisions thereof, and (2) that such code or codes are not designed to promote monopolies or to eliminate or oppress small enterprises and will not operate to discriminate against them, and will tend to effectuate the policy of this title: *Provided*, That such code or codes shall not permit monopolies or monopolistic practices: *Provided further*, That where such code or codes affect the services and welfare of persons engaged in other steps of the economic process, nothing in this section shall deprive such persons of the right to be heard prior to approval by the President of such code or codes. The President may, as a condition of his approval of any such code, impose such conditions (including requirements for the making of reports and the keeping of accounts) for the protection of consumers, competitors, employees, and others, and in furtherance of the public interest, and may provide such exceptions to and exemptions from the provisions of such code, as the President in his discretion deems necessary to effectuate the policy herein declared.

(b) After the President shall have approved any such code, the provisions of such code shall be the standards of fair competition for such trade or industry or subdivision thereof. Any violation of such standards in any transaction in or affecting interstate or foreign commerce shall be deemed an unfair method of competition in commerce within the meaning of the Federal Trade Commission Act, as amended; but nothing in this title shall be construed to impair the powers of the Federal Trade Commission under such Act, as amended.

(c) The several district courts of the United States are hereby invested with jurisdiction to prevent and restrain violations of any code of fair competition approved under this title; and it shall be the duty of the several district attorneys of the United States, in their respective districts,

under the direction of the Attorney General, to institute proceedings in equity to prevent and restrain such violations.

(d) Upon his own motion, or if complaint is made to the President that abuses inimical to the public interest and contrary to the policy herein declared are prevalent in any trade or industry or subdivision thereof, and if no code of fair competition therefor has theretofore been approved by the President, the President, after such public notice and hearing as he shall specify, may prescribe and approve a code of fair competition for such trade or industry or subdivision thereof, which shall have the same effect as a code of fair competition approved by the President under subsection (a) of this section.

(e) On his own motion, or if any labor organization, or any trade or industrial organization, association, or group, which has complied with the provisions of this title, shall make complaint to the President that any article or articles are being imported into the United States in substantial quantities or increasing ratio to domestic production of any competitive article or articles and on such terms or under such conditions as to render ineffective or seriously to endanger the maintenance of any code or agreement under this title, the President may cause an immediate investigation to be made by the United States Tariff Commission, which shall give precedence to investigations under this subsection, and if, after such investigation and such public notice and hearing as he shall specify, the President shall find the existence of such facts, he shall, in order to effectuate the policy of this title, direct that the article or articles concerned shall be permitted entry into the United States only upon such terms and conditions and subject to the payment of such fees and to such limitations in the total quantity which may be imported (in the course of any specified period or periods) as he shall find it necessary to prescribe in order that the entry thereof shall not render or tend to

render ineffective any code or agreement made under this title. In order to enforce any limitations imposed on the total quantity of imports, in any specified period or periods, of any article or articles under this subsection, the President may forbid the importation of such article or articles unless the importer shall have first obtained from the Secretary of the Treasury a license pursuant to such regulations as the President may prescribe. Upon information of any action by the President under this subsection the Secretary of the Treasury shall, through the proper officers, permit entry of the article or articles specified only upon such terms and conditions and subject to such fees, to such limitations in the quantity which may be imported, and to such requirements of license, as the President shall have directed. The decision of the President as to facts shall be conclusive. Any condition or limitation of entry under this subsection shall continue in effect until the President shall find and inform the Secretary of the Treasury that the conditions which led to the imposition of such condition or limitation upon entry no longer exists.

(f) When a code of fair competition has been approved or prescribed by the President under this title, any violation of any provision thereof in any transaction in or affecting interstate or foreign commerce shall be a misdemeanor and upon conviction thereof an offender shall be fined not more than $500 for each offense, and each day such violation continues shall be deemed a separate offense.

Agreements and Licenses

Sec. 4. (a) The President is authorized to enter into agreements with, and to approve voluntary agreements between and among, persons engaged in a trade or industry, labor organizations, and trade or industrial organizations, associations, or groups, relating to any trade or industry, if in his judgment such agreements will aid in effectuating

the policy of this title with respect to transactions in or affecting interstate or foreign commerce, and will be consistent with the requirements of clause (2) of subsection (a) of section 3 for a code of fair competition.

(b) Whenever the President shall find that destructive wage or price cutting or other activities contrary to the policy of this title are being practiced in any trade or industry or any subdivision thereof, and, after such public notice and hearing as he shall specify, shall find it essential to license business enterprises in order to make effective a code of fair competition or an agreement under this title or otherwise to effectuate the policy of this title, and shall publicly so announce, no person shall, after a date fixed in such announcement, engage in or carry on any business, in or affecting interstate or foreign commerce, specified in such announcement, unless he shall have first obtained a license issued pursuant to such regulations as the President shall prescribe. The President may suspend or revoke any such license, after due notice and opportunity for hearing, for violations of the terms or conditions thereof. Any order of the President suspending or revoking any such license shall be final if in accordance with law. Any person who, without such a license or in violation of any condition thereof, carries on any such business for which a license is so required, shall, upon conviction thereof, be fined not more than $500, or imprisoned not more than six months, or both, and each day such violation continues shall be deemed a separate offense. Notwithstanding the provisions of section 2 (c), this subsection shall cease to be in effect at the expiration of one year after the date of enactment of this Act or sooner if the President shall by proclamation or the Congress shall by joint resolution declare that the emergency recognized by section 1 has ended.

SEC. 5. While this title is in effect (or in the case of a license, while section 4 (a) is in effect) and for sixty days thereafter, any code, agreement, or license approved, pre-

scribed, or issued and in effect under this title, and any action complying with the provisions thereof taken during such period, shall be exempt from the provisions of the anti trust laws of the United States.

Nothing in this Act, and no regulation thereunder, shall prevent an individual from pursuing the vocation of manual labor and selling or trading the products thereof; nor shall anything in this Act, or regulation thereunder, prevent any one from marketing or trading the produce of his farm.

LIMITATIONS UPON APPLICATION OF TITLE

SEC. 6. (a) No trade or industrial association or group shall be eligible to receive the benefit of the provisions of this title until it files with the President a statement containing such information relating to the activities of the association or group as the President shall by regulation prescribe.

(b) The President is authorized to prescribe rules and regulations designed to insure that any organization availing itself of the benefits of this title shall be truly representative of the trade or industry or subdivision thereof represented by such organization. Any organization violating any such rule or regulation shall cease to be entitled to the benefits of this title.

(c) Upon the request of the President, the Federal Trade Commission shall make such investigations as may be necessary to enable the President to carry out the provisions of this title, and for such purposes the Commission shall have all the powers vested in it with respect of investigations under the Federal Trade Commission Act, as amended.

SEC. 7. (a) Every code of fair competition, agreement, and license approved, prescribed, or issued under this title shall contain the following conditions: (1) That em-

ployees shall have the right to organize and bargain collectively through representatives of their own choosing, and shall be free from the interference, restraint, or coercion of employers of labor, or their agents, in the designation of such representatives or in self organization or in other concerted activities for the purpose of collective bargaining or other mutual aid or protection; (2) that no employee and no one seeking employment shall be required as a condition of employment to join any company union or to refrain from joining, organizing, or assisting a labor organization of his own choosing; and (3) that employers shall comply with the maximum hours of labor, minimum rates of pay, and other conditions of employment, approved or prescribed by the President.

(b) The President shall, so far as practicable, afford every opportunity to employers and employees in any trade or industry or subdivision thereof with respect to which the conditions referred to in clauses (1) and (2) of subsection (a) prevail, to establish by mutual agreement, the standards as to the maximum hours of labor, minimum rates of pay, and such other conditions of employment as may be necessary in such trade or industry or subdivision thereof to effectuate the policy of this title; and the standards established in such agreements, when approved by the President, shall have the same effect as a code of fair competition, approved by the President under subsection (a) of section 3.

(c) Where no such mutual agreement has been approved by the President he may investigate the labor practices, policies, wages, hours of labor, and conditions of employment in such trade or industry or subdivision thereof; and upon the basis of such investigations, and after such hearings as the President finds advisable, he is authorized to prescribe a limited code of fair competition fixing such maximum hours of labor, minimum rates of pay, and other conditions of employment in the trade or

industry or subdivision thereof investigated as he finds to be necessary to effectuate the policy of this title, which shall have the same effect as a code of fair competition approved by the President under subsection (a) of section 3. The President may differentiate according to experience and skill of the employees affected and according to the locality of employment; but no attempt shall be made to introduce any classification according to the nature of the work involved which might tend to set a maximum as well as a minimum wage.

(d) As used in this title, the term "person" includes any individual, partnership, association, trust, or corporation; and the terms "interstate and foreign commerce" and "interstate or foreign commerce" include, except where otherwise indicated, trade or commerce among the several States and with foreign nations, or between the District of Columbia or any Territory of the United States and any State, Territory, or foreign nation, or between any insular possessions or other places under the jurisdiction of the United States, or between any such possession or place and any State or Territory of the United States or the District of Columbia or any foreign nation, or within the ~~District of~~ Columbia or any Territory or any insular possession or other place under the jurisdiction of the United States.

APPLICATION OF AGRICULTURAL ADJUSTMENT ACT

SEC. 8. (a) This title shall not be construed to repeal or modify any of the provisions of title I of the Act entitled "An Act to relieve the existing national economic emergency by increasing agricultural purchasing power, to raise revenue for extraordinary expenses incurred by reason of such emergency, to provide emergency relief with respect to agricultural indebtedness, to provide for the orderly liquidation of joint-stock land banks, and for other

purposes", approved May 12, 1933; and such title I of said Act approved May 12, 1933, may for all purposes be hereafter referred to as the "Agricultural Adjustment Act."

(b) The President may, in his discretion, in order to avoid conflicts in the administration of the Agricultural Adjustment Act and this title, delegate any of his functions and powers under this title with respect to trades, industries, or subdivisions thereof which are engaged in the handling of any agricultural commodity or product thereof, or of any competing commodity or product thereof, to the Secretary of Agriculture.

Oil Regulation

Sec. 9. (a) The President is further authorized to initiate before the Interstate Commerce Commission proceedings necessary to prescribe regulations to control the operations of oil pipe lines and to fix reasonable, compensatory rates for the transportation of petroleum and its products by pipe lines, and the Interstate Commerce Commission shall grant preference to the hearings and determination of such cases.

(b) The President is authorized to institute proceedings to divorce from any holding company any pipe-line company controlled by such holding company which pipeline company by unfair practices or by exorbitant rates in the transportation of petroleum or its products tends to create a monopoly.

(c) The President is authorized to prohibit the transportation in interstate and foreign commerce of petroleum and the products thereof produced or withdrawn from storage in excess of the amount permitted to be produced or withdrawn from storage by any State law or valid regulation or order prescribed thereunder, by any board, commission, officer, or other duly authorized agency of a State. Any violation of any order of the President issued under

the provisions of this subsection shall be punishable by fine of not to exceed $1,000, or imprisonment for not to exceed six months, or both.

RULES AND REGULATIONS

SEC. 10. (a) The President is authorized to prescribe such rules and regulations as may be necessary to carry out the purposes of this title, and fees for licenses and for filing codes of fair competition and agreements, and any violation of any such rule or regulation shall be punishable by fine of not to exceed $500, or imprisonment for not to exceed six months, or both.

(b) The President may from time to time cancel or modify any order, approval, license, rule, or regulation issued under this title; and each agreement, code of fair competition, or license approved, prescribed, or issued under this title shall contain an express provision to that effect.

TITLE III

* * * * * * * * *

SEPARABILITY CLAUSE

SEC. 303. If any provision of this Act, or the application thereof to any person or circumstances, is held invalid, the remainder of the Act, and the application of such provision to other persons or circumstances, shall not be affected thereby.

2. CODE OF FAIR COMPETITION FOR THE LIVE POULTRY INDUSTRY OF THE METROPOLITAN AREA IN AND ABOUT THE CITY OF NEW YORK.

ARTICLE I—PURPOSES

To effect the policies of title I of the National Industrial Recovery Act, this code is established as a code of fair competition for the live poultry industry of the metropolitan area in and about the City of New York, and its provisions shall be the standards of fair competition for such industry, and shall be binding upon every member thereof.

In the event a national code of fair competition for the egg and poultry industry is approved by the President, this code shall be considered as a supplemental code to said National code and be subject to provisions thereof.

ARTICLE II—DEFINITIONS

SECTION 1. The term "live poultry industry of the metropolitan area in and about the City of New York" or "industry" means and includes every person engaged in the business of selling, purchasing for resale, transporting, or handling and/or slaughtering live poultry, from the time such poultry comes into the New York metropolitan area to the time it is first sold in slaughtered form, and such related branches as may from time to time be included under the provisions of this code by amendment hereof.

SEC. 2. The term "member of the industry" includes, without limitation, any individual, partnership, association, corporation, or other form of enterprise engaged in the industry, either as an employer or on his or its own behalf.

SEC. 3. The term "employee" as used herein includes any and all persons engaged in the industry, however compensated, except a member of the industry.

SEC. 4. The terms "act", "Secretary", and "Administrator", as used herein, mean, respectively, title I of the National Industrial Recovery Act, the Secretary of Agriculture, or his duly appointed agent, and the Administrator for Industrial Recovery, or his duly appointed agent.

SEC. 5. The term "code supervisor" means the code supervisor created pursuant to section 1 of Article VI of this code.

SEC. 6. The term "industry advisory committee" means the industry advisory committee created pursuant to section 2 of article VI of this code.

SEC. 7. The term "person" means individual, partnership, corporation, association, and any other business unit.

SEC. 8. The term "employer" means any person by whom any such employee is compensated or employed.

SEC. 9. The term "State" includes Territory and the District of Columbia.

SEC. 10. The term "books and records" means any and all books, records, accounts, contracts, documents, memoranda, papers, correspondence or other written data pertaining to the business of the person in question.

SEC. 11. The term "subsidiary" means any person, of or over whom a member of the industry has, either directly or indirectly, actual or legal control, whether by stock ownership or in any other manner.

SEC. 12. The term "affiliate" means any person who has, either directly or indirectly, actual or legal control of or over a member of the industry, whether by stock ownership or in any other manner.

SEC. 13. The term "outside salesman" means any salesman who perfoms primarily selling functions and does not deliver. (1) "Primary" shall mean ninety (90) percent of employed time.

SEC. 14. The term "produce" means and includes live poultry and poultry slaughtered in the metropolitan area.

SEC. 15. The term "straight killing" means the practice of requiring persons purchasing poultry for resale to accept the run of any half coop, coop, or coops, as purchased by slaughterhouse operators, except for culls.

SEC. 16. The term "culls" means poultry which is unfit for human consumption as defined in the instructions of the Chief of the Bureau of Agricultural Economics governing the inspection of live poultry at New York.

SEC. 17. The term "commission merchant" means any person receiving live poultry for sale, on commission, or for or on behalf of another.

SEC. 18. The term "broker" means and includes any person who procures and brings about a sale of live poultry, but who is himself neither purchaser nor vendor in the transaction.

SEC. 19. The term "receiver or jobber" means any person receiving and buying live poultry from shippers or producers for his own account.

SEC. 20. The term "wholesale slaughterhouse" is one in which more than three thousand (3,000) pounds per week, averaged over a four (4) week period, is sold for purposes of resale. All other slaughterhouses shall be deemed "retail slaughterhouses."

SEC. 21. The term "retail butcher shop" includes all premises where cut meats as well as poultry slaughtered elsewhere in the area covered by this code are sold directly to the public or consumer.

SEC. 22. The term "chicken store" includes all premises where, exclusively, poultry slaughtered elsewhere in the area covered by this code, is sold direct to the public or consumer.

SEC. 23. The term "chicken stand" includes all stands located in retail food markets where poultry slaughtered elsewhere in the area covered by this code is sold direct to the public or consumer.

SEC. 24. The term "metropolitan area or metropolitan area in and about the City of New York" includes the five boroughs of New York City; the counties of Rockland, Westchester, Nassau, and Suffolk in the State of New York; the counties of Hudson and Bergen in the State of New Jersey; and the county of Fairfield in the State of Connecticut.

ARTICLE III—HOURS

SECTION 1. No employee shall be permitted to work in excess of forty (40) hours in any one week, except as herein otherwise provided. A normal work day shall not exceed eight (8) hours on any day except Thursday and Saturday, when it shall not exceed twelve (12) hours.

(*a*) Executives, managerial and/or professional employees and outside salesmen, provided they regularly receive thirty-five dollars ($35.00) per week or more.

(*b*) Slaughterhouse employees provided that they shall not work more than forty-eight (48) hours in any one week.

(c) During Jewish holidays and legal holidays, employees may be permitted to work in excess of the hours herein provided on condition, however, that the total number of such days shall not exceed forty two (42) in any one calendar year.

(d) Employees on emergency maintenance or repair work involving break down or protection of life or property may be permitted to work in excess of the maximum hours hereinabove set forth, provided that all hours in excess of the maximum are compensated at time and one third.

SEC. 2. No employee shall be permitted to work more than six (6) days in any one week, except that an employer may use not over two of his employees on the seventh day for the purpose of feeding live poultry.

SEC. 3. No employer shall knowingly engage any employee for any time which when totaled with that already performed with another employer, or employers, in the industry exceeds the maximum hours prescribed herein.

SEC. 4. Reports shall be made monthly to the code supervisor, stating the number of hours worked by employees pursuant to section 1 (c) and (d) of this article and the number of hours worked by part time emergency or temporary employees.

ARTICLE IV—WAGES

SECTION 1. No employee shall be paid in any pay period less than at the rate of fifty (50) cents per hour except that:

(a) Overtime work, as provided for in article III, section 1 (d), shall be paid for at not less than time and one third for such weekly overtime.

(b) Work time on Sundays, Jewish holidays, and on legal holidays shall be paid for at not less than at the rate of time and one third.

(c) After the effective date of this code wages shall be exempt from any charges, fines, rebates, or deductions, or any other form of deducting or withholding wages, except for employees' voluntary contributions for pensions, insurance, or benefit plans, and no employer shall withhold wages except upon legal process, or other papers lawfully requiring such withholding.

(d) Employers shall make payment of all wages in lawful currency or by negotiable checks payable on demand. Payments of wages shall be made at least once every two weeks.

SEC. 2. This article establishes a minimum rate of pay which shall apply, irrespective of whether an employee is actually compensated on a time rate, piecework, or other basis.

SEC. 3. It is the purpose of this code that there shall be an equitable adjustment of all wages above the minimum, and to that end the code supervisor, the labor advisory committee and the industry advisory committee shall, within six (6) months of the approval of this code, submit for the approval of the Administrator a proposal for adjustment in wages above the minimum. Upon approval of the Administrator, after such hearing as he may prescribe, such approval shall become binding as a part of this code; provided however, that in no event shall hourly rates of pay be reduced.

SEC. 4. Female employees performing substantially the same work as male employees shall receive the same rates of pay as male employees.

ARTICLE V—GENERAL LABOR PROVISIONS

SECTION 1. No person under sixteen (16) years of age shall be employed in the industry. No person under eighteen (18) years of age shall be employed at operations or occupations which are hazardous in nature or dangerous to health. The industry advisory committee shall submit to the Administrator and the code supervisor before May 1st, 1934, a list of such occupations. In any State an employer shall be deemed to have complied with this provision as to age if he shall have on file a certificate or permit duly signed by the authority in such State empowered to issue employment or age certificates or permits showing that the employee is of the required age.

SEC. 2. (*a*) Employees shall have the right to organize and bargain collectively through representatives of their own choosing and shall be free from interference, restraint, or coercion of employers of labor, or their agents, in the designation of such representatives or in such self-organization or in other concerted activities for the purpose of collective bargaining or other mutual aid or protection.

(*b*) No employee and no one seeking employment shall be required, as a condition of employment, to join any company union or to refrain from joining, organizing, or assisting a labor organization of his own choosing.

(*c*) Employers shall comply with the maximum hours of labor, minimum rates of pay, and other conditions of employment approved or prescribed by the President.

SEC. 3. No provision in this code shall supersede any State or Federal law which imposes on employers more stringent requirements as to age of employees, wages, hours of work, or as to safety, health, sanitary or general working conditions, or insurance, or fire protection, than are imposed by this code.

SEC. 4. No employer shall reclassify employees or duties of occupations performed, or discharge employees to reemploy them at lower rates, or engage in any other subterfuge for the purpose of defeating the provisions of the act or of this code.

SEC. 5. Every employer shall provide for the safety and health of his employees during the hours, and at the places of their employment. Standards for safety and health shall be submitted by the code supervisor to the Administrator within six (6) months after the effective date of this code.

SEC. 6. Terms of employment shall not by reason of relationship of employer and employees other than that of marriage, be exempt from the provisions of this code; and any person working for a member of the industry, other than the wife or husband of said member, shall be considered an "employee" as herein defined. Partners and stockholders of members of the industry and others having proprietary interests in members of the industry shall not, if employed thereby, be exempt from hour, wage, and general labor provisions of this code.

SEC. 7. No employer shall change the method of payment of compensation of employees for the purpose of evading the provisions of this code or by other subterfuge evade the provisions of this code or of the act.

SEC. 8. Each member of the industry shall comply with such rules and regulations with regard to the posting of notices, bulletins, and extracts of code provisions as may be from time to time issued by the Secretary and/or Administrator. Such notices, bulletins, and extracts of code provisions shall be written in English and such other language as may be in general use throughout the plant.

SEC. 9. To increase employment and to standardize the cost of marketing and selling, every slaughterhouse opera-

tor shall regularly employ not less than one (1) employee if the volume of his weekly sales of live poultry averaged over a period of four (4) weeks is not less than six thousand (6,000), but not in excess of eight thousand (8,000) pounds; not less than two (2) employees, if the average volume of weekly sales is above eight thousand (8,000), but not in excess of eleven thousand (11,000) pounds; not less than three (3) employees, if the average volume of weekly sales is above eleven thousand (11,000), but not in excess of eighteen thousand (18,000) pounds; not less than four (4) employees, if the average volume of weekly sales is above eighteen thousand (18,000) pounds, but not in excess of twenty-eight thousand (28,000) pounds; not less than five (5) employees, if the average volume of weekly sales is above twenty-eight thousand (28,000), but not in excess of forty thousand (40,000) pounds; and not less than one (1) additional employee for every additional ten thousand (10,000) pounds, or fraction thereof, above forty thousand (40,000) pounds.

SEC. 10. A person whose earning capacity is limited because of age, physical or mental handicap, or other infirmity, may be employed on light work at a wage below the minimum established by this code, if the employer obtains from the state authority, designated by the United States Department of Labor, a certificate authorizing such person's employment at such wages and for such hours as shall be stated in the certificate. Such authority shall be guided by the instructions of the United States Department of Labor in issuing certificates to such persons. Each employer shall file monthly with the code authority a list of all such persons employed by him, showing the wages paid to, and the maximum hours of work for such employee.

ARTICLE VI—ADMINISTRATION

SECTION 1. *Code supervisor.*—A code supervisor shall be appointed by agreement between the Secretary and the

Administrator with the approval of the industry advisory committee. The code supervisor shall be subject to removal, at any time, by the Secretary and the Administrator.

(*a*) The salary of the code supervisor shall be fixed by agreement with the industry advisory committee and shall be subject to the approval of the Secretary and the Administrator. The salary and expenses of the code supervisor shall be paid from assessments levied and collected pursuant to paragraphs 3 and 4 of section 2 of this article.

(*b*) The said code supervisor shall have the following powers and duties subject to the disapproval of the Secretary and/or Administrator:

(1) To administer this code and to supervise the performance of the provisions thereof.

(2) To receive and investigate complaints of alleged violations of the provisions of this code, and to report violations to the Secretary and/or Administrator.

(3) To prescribe such rules and regulations, with the approval of the Secretary and/or Administrator, as may be necessary for the proper administration of this code and the performance of his duties herein.

(4) To submit reports to the Secretary and/or Administrator upon request, with reference to the operation and effect of this code.

(5) To make recommendations to the Secretary and/or Administrator for amendments or modifications to this code designed to further effectuate the policy of the Act.

(6) To study the problem of inspection of poultry and make recommendations to the Secretary for the establishment of adequate inspection points for poultry in each of the five boroughs of the City of New York and in each of the counties in the metropolitan area outside of the City of New York.

(7) To study the problem of the cost of handling poultry in the metropolitan area and make recommendations to the Secretary for a possible lowering of such costs and increasing efficiency.

(8) To study the problem of the method of arriving at the daily market price of poultry and to make recommendations to the Secretary for the establishment of a more efficient method of truly reflecting supply and demand factors.

(9) With the approval of the industry advisory committee, to employ such personnel as may be necessary to assist him in his duties and to determine the compensation of such personnel.

(10) To establish a labor advisory committee, subject to approval of the Administrator, and such additional advisory committees as may be necessary and to consult with such committees and with the industry advisory committee relative to the performance of this code and the problems of the industry.

(11) To attend all meetings of the industry advisory committee and to assist said committee in the performance of its duties.

SEC. 2. *Industry Advisory Committee.*

1. An industry advisory committee shall be established consisting of fifteen (15) members to be selected as follows:

(*a*) Seven (7) members, representing receivers, jobbers, and commission merchants, to be selected as follows: (1) Five (5) members to be selected by the New York Live Poultry Commission Merchants' Association; (2) Two (2) members not members of said association, to be elected by a majority vote of members of the industry who are not members of the association, at a meeting or convention of such nonmembers. At least one of these members must have his business located outside the five bor-

oughs of New York City. Such nonmembers may vote at such meeting by mail and a vote cast by mail shall have the same force and effect as a vote cast at such meeting. Each member defined as a receiver, jobber, or commission merchant shall be entitled to one vote. If such group fails to select its representatives within fifteen days after the effective date of this code, the code supervisor shall select such persons to serve until such representatives are elected.

(*b*) Eight (8) members, representing slaughterhouse operators, to be selected as follows: (1) Three (3) members shall be selected by the Live Poultry Slaughter House Association, Inc., of New York; (2) Three (3) members shall be selected by the Merchants' Association for Live Poultry, Inc., of New York; (3) Two (2) members, not members of either of said associations, shall be elected by a majority vote of members of the industry who are not members of either of said associations at a meeting or convention of such nonmembers. At least one of these members must have his business located outside the five boroughs of the city. Such nonmembers may vote at such meeting by mail and a vote cast by mail shall have the same force and effect as a vote cast at such meeting. Each member of the industry defined as either a wholesale slaughterhouse operator and/or retail slaughterhouse operator shall be entitled to one vote. If such group fails to select its representatives within fifteen days after the effective date of this code, the code supervisor shall select such persons to serve until such representatives are elected.

(*c*) Not more than one officer, director, or employee of any member of the industry shall be a member of the industry advisory committee.

(*d*) In addition to membership as above provided the Secretary and the Administrator may each appoint one representative, not a member of the industry, without vote to serve for such terms as they may specify.

(*e*) Members of the industry advisory committee shall be subject to the disapproval of the Secretary and/or Administrator.

(*f*) Members of the industry advisory committee shall serve for one year or until their successors are elected.

(*g*) All vacancies occurring in the membership of the industry advisory committee shall be filled for the unexpired term by the vote of the remaining members of the division of the industry advisory committee in which such vacancy occurs.

(*h*) Each trade or industrial association directly or indirectly participating in the selection or activities of the industry advisory committee shall (1) impose no inequitable restrictions on membership, and (2) submit to the Secretary and the Administrator true copies of its articles of association, by-laws, regulations, and any amendments when made thereto, together with such other information as to membership, organization, and activities as the Secretary or the Administrator may deem necessary to effectuate the purposes of the act.

(*i*) In order that the industry advisory committee shall at all times be truly representative of the industry and in other respects comply with the provisions of the act, the Secretary or the Administrator may prescribe such hearings as he may deem proper; and thereafter if he shall find that the industry advisory committee is not truly representative or does not, in other respects, comply with the provisions of the act, may require an appropriate modification in the method of selection of the industry advisory committee, or take such other action as the evidence adduced at the hearing may warrant.

(*j*) Nothing contained in this code shall constitute the members of the industry advisory committee and code supervisor partners for any purpose. Nor shall any member of the industry advisory committee and/or the code super-

visor be liable in any manner to anyone for any act of any other member, officer, agent, or employee of the industry advisory committee and/or the code supervisor. Nor shall any member of the industry advisory committee or the code supervisor, exercising reasonable diligence in the conduct of his duties hereunder, be liable to anyone for any action or omission to act under this code, except for his own wilful malfeasance or nonfeasance.

(*k*) If the Secretary or the Administrator shall determine as to matters subject to their respective jurisdiction that any action of the industry advisory committee and/or the code supervisor or any agency thereof may be unfair, or unjust, or contrary to the public interest the Secretary or the Administrator, as the case may be, may require that such action be suspended to afford an opportunity for investigation of the merits of such action and further consideration by such industry advisory committee and/or the code supervisor or agency pending final action, which shall not be effective unless the Secretary or the Administrator approves, or unless he shall fail to disapprove after thirty days' notice to him of intention to proceed with such action in its original or modified form.

2. The powers and duties of the industry advisory committee shall be as follows:

(*a*) To cooperate with the code supervisor in the administration of this code and to assist him in procuring the observance of the provisions thereof.

(*b*) To perform such functions as are delegated to it by the provisions of section 1 of this article.

(*c*) To act as a planning and research agency for the industry and to make recommendations to the code supervisor for amendments or modifications to this code, designed to effectuate the policy of the act.

(*d*) To cooperate with the Bureau of Agricultural Economics in the preparation of uniform standards, grades

(including consumer grades), and terminology for the various products of the industry. The industry advisory committee shall within six (6) months of the approval of this code forward its recommendations on standards, grades, and terminology to the Secretary. When, after due notice and an opportunity for a hearing, standards, grades, and terminology for any produce of the industry are promulgated by the Secretary all members of the industry may use such standards, grades, and terminology in the purchase and sale of all products, wherever applicable, and, if so, shall conspicuously designate such standards and grades on produce or packages of produce, wherever applicable.

(e) To cooperate in furthering a National code of fair competition for the marketing division of the egg and poultry industry.

3. The code supervisor, with the approval of the industry advisory committee, is authorized to incur such expenses and to make such expenditures as may be necessary for the maintenance of this code. All moneys collected shall be deposited and disbursed in the name of one of the members of such industry advisory committee, designated as treasurer, who shall furnish bond in an amount satisfactory to the industry advisory committee. The members of the industry advisory committee shall serve without compensation, but shall be entitled to their expenses which are necessarily incurred in the performance of their duties hereunder.

4. Each member of the industry, subject to the jurisdiction of the code, shall pay to the industry advisory committee his pro rata share of all expenses incurred in the administration of this code, and shall make payment upon due notice from the industry advisory committee of his share of such expenses and after opportunity for a hearing to any party dissatisfied with the amount of his assess-

ment. Such pro rata share shall be based upon volume of business, or such other factors as the industry advisory committee may deem equitable, and shall be subject to the disapproval of the Secretary and/or Administrator. The industry advisory committee shall have power to institute legal proceedings in its own name and to take any other steps which may be necessary to collect such assessments from members of the industry.

ARTICLE VII.—TRADE PRACTICE PROVISIONS

The following practices shall be deemed to be and shall constitute unfair methods of competition on the part of members of the industry and are hereby prohibited.

SECTION 1. *False advertising.*—To publish or disseminate in any manner any false advertisement. An advertisement shall be deemed to be false if it is untrue in any particular, or if directly or by ambiguity or inference it creates a misleading impression.

SEC. 2. *Inedible products.*—Knowingly to purchase or sell for human consumption culls or other produce that is unfit for that purpose.

SEC. 3. *Rebates.*—The secret payment or secret allowance of rebates, refunds, commissions, credits, or unearned discounts, whether in the form of money or otherwise, and/or the secret extension to certain purchasers of special service or privileges not extended to all purchasers on like terms and conditions, provided that nothing in this code shall be construed to prevent the payment of patronage dividends to members of any bona fide cooperative association duly organized under the laws of any State of the United States, and provided further that nothing in this code shall be deemed to prevent the allowance of a refund, rebate, or credit to any person having a legitimate claim thereto.

SEC. 4. *Commercial bribery.*—Directly or indirectly to give or permit to be given or offer to give money or anything of value to agents, employees, or representatives of customers or prospective customers or to agents, employees, or representatives of competitors' customers, or prospective customers, without the knowledge of their employers or principals, as an inducement to influence their employers or principals to purchase or contract to purchase industry products from the maker of such gift or offer, or to influence such employers or principals to refrain from dealing or contracting with competitors.

SEC. 5. *Interference with contractual relations.*—Maliciously inducing or attempting to induce the breach of an existing oral or written contract between a competitor and his customer and or source of supply, or interfering with or obstructing the performance of any such contractual duties or services.

SEC. 6. *Defamation.*—The defamation of competitors or customers by falsely imputing to them dishonorable conduct, inability to perform contracts, questionable credit standing, or by other false representations or by the false disparagement of the grade or quality of their goods.

SEC. 7. *Destructive price cutting.*—No member of the industry shall engage in destructive price cutting. The selling or offering for sale of a product below a fair and reasonable price for the purpose and with the effect of unduly discriminating between purchasers or localities, or of injuring a competitor or of unduly suppressing competition, or of creating a monopoly, shall be deemed to be destructive price cutting. Selling or offering to sell a product below the current market price shall be prima facie evidence of destructive price cutting, but such selling or offering to sell a product may be justified by a member of the industry by showing that such selling or offering to sell was—

(1) To dispose of damaged or defective products designated as such, or

(2) For charitable or relief purposes, or

(3) Required by law, or

(4) For such other good and sufficient reason as may be determined by the code supervisor and/or approved by the Secretary.

SEC. 8. *Price discriminations.*—To discriminate in price between different purchasers, except for differences in price on account of grade, quality, or quantity of produce sold, or the credit risk involved.

SEC. 9. *Giving of prizes, premiums, or gifts.*—The offering or giving of prizes, premiums, or gifts in connection with the sale of produce, or as an inducement thereto, by any scheme which involves lottery, misrepresentation, or fraud.

SEC. 10. *Misrepresenting produce.*—Knowingly to sell produce short in weight or misrepresented as to the point of origin, quality, condition, or kind of produce.

SEC. 11. *Excessive feeding.*—To feed poultry on the day of unloading or slaughtering beyond what is reasonably required (so that the crops or gullets will show not more than one (1) ounce per bird for broilers under two and one half (2½) pounds; two (2) ounces per bird for chickens and ducks; three (3) ounces per bird for turkeys and geese) with the intent and effect of deceiving purchasers as to the true weight of the poultry.

SEC. 12. *Weighing.*—To weigh produce inaccurately with the effect of deceiving sellers or purchasers as to the true weight of the produce.

SEC. 13. *Unloading.*—Unnecessarily to delay the unloading of express lots, cars, or trucks of live poultry for the purpose of causing shrinkage in weight.

SEC. 14. *Straight killing.*—The use, in the wholesale slaughtering of poultry, of any method of slaughtering other than "straight killing" or killing on the basis of official grade. Purchasers may, however, make selection of a half coop, coop, or coops, but shall not have the right to make any selection of particular birds.

SEC. 15. *Illegal sales.*—The sale or resale of produce to any person not legally entitled to conduct a business of handling the produce of the industry (where a license or permit is required).

SEC. 16. *Misrepresentations as to expected shipments.*—The misrepresentation of any fact which has to do with expected shipments, expected supply for the week, quality, or quantity of poultry with the purpose and effect of creating a false market resulting in injury to shippers, members of the industry, or consumers.

SEC. 17. *Price misrepresentation.*—The willful misrepresentation of any fact intended to affect the price of produce.

SEC. 18. *Unlawful combinations.*—To conspire, combine, agree, or arrange with any other person (1) to apportion territory for carrying on business, or (2) to apportion purchases or sales; (3) to allocate customers, or (4) to manipulate or control prices.

SEC. 19. *Service charges.*—To make charges in connection with cooping, trucking, loading, or unloading for services that may be unnecessary or unreasonable, or may be performed by the shipper at his option, or exert other re-

pressive action upon the freedom of producers to deliver produce direct to any local purchaser.

SEC. 20. *Misrepresentation of function.* For a member of the industry to represent himself as a commission merchant or broker when in truth he is acting as a principal.

SEC. 21. *Anti Racketeering.* The following practices and acts shall be considered violations of this code: (1) Any act of violence, coercion, extortion, or intimidation, or any threat, conspiracy, combination or concerted action to commit any act of violence, coercion, extortion, or intimidation; (2) Payment of money or any other valuable consideration to any person, firm, corporation, or association as a result of or in connection with intimidation, coercion, extortion, violence, or injury to personal property, or threat of such violence, extortion, or injury, or to avoid such violence or injury; (3) Payment or collection, directly or indirectly, of money or other valuable considerations for the purpose of obtaining favors or special privilege under or exemption from:

(*a*) Any provision of this code, or

(*b*) Any Federal, State, municipal, county, or local statute, ordinance, rule, or regulation relating to the conduct of the industry, or

(*c*) Any rule, regulation, or policy of a labor union.

(4) any act intended to coerce, having the necessary effect of coercing any person, firm, or corporation engaged or employed in the industry, or attempting to engage or be employed in the industry, to join or not to join any association, firm, corporation, or group. Whenever any person, firm, or corporation engaged in or employed in the industry is apprised, directly or indirectly, of any such payment, collection, violence, coercion, extortion, intimidation, or any attempt to make such payment, collection, or to commit any such act of violation, coercion, extortion, or intimidation, he

shall make a full and complete report thereof, together with all direct or indirect information in his possession relating thereto. Any failure to make such report or furnish such information shall be a violation of this code.

SECTION 22. *Inspection of poultry.*—The sale of live poultry which has not been inspected and approved in accordance with the rules, regulations, and/or ordinances of the particular area.

ARTICLE VIII—GENERAL

SECTION 1. *Reports.*

(*a*) The members of the industry shall severally, from time to time, upon the request of the Secretary (or the Administrator in the case of information relating to hours of labor, rates of pay, and other conditions of employment) furnish such information to such Federal and State agencies as, and in accordance with forms of reports supplied to them (which reports shall be verified under oath) as the Secretary or the Administrator may designate and require (1) for the protection of consumers, competitors, employees, and others, and in furtherance of the public interest, and (2) for the determination by the Secretary or the Administrator of the extent to which the declared policy of the act is being effectuated by this code.

(*b*) The members of the industry shall severally permit, for the same purposes and/or to enable the Secretary or the Administrator to verify the information furnished on said forms of reports, all their books and records and the books and records of their affiliates and subsidiaries, to be examined by the Secretary or the Administrator during the usual hours of business.

(*c*) The members of the industry shall severally keep books and records which will clearly reflect all financial transactions of their respective businesses and the financial

condition thereof and shall see to it that their respective subsidiaries and affiliates keep such records.

(*d*) In addition to the reports to be furnished pursuant to section 1 of this article, members of the industry shall severally from time to time, upon request of the code supervisor, furnish information pertaining to dual interests, such as the owning or holding, directly or indirectly, of any financial or other interest by (1) a slaughterhouse operator in the business of a shipper, commission merchant, broker, receiver or jobber, chicken store, chicken stand, or butcher shop operator; (2) of a shipper, commission merchant, broker, receiver or jobber, chicken store, chicken stand, or butcher shop operator in the business of a slaughterhouse; (3) of a commission merchant or broker in the business of a receiver or jobber; (4) of a commission merchant or broker in the business of a shipper; (5) or any other combination of dual-interest information relating to dual interests may be made public.

Nothing in this code shall relieve any person of existing obligations to furnish reports to Government agencies.

No individual reports shall be disclosed to any other member of the industry or any other party except as may be directed by the Secretary or the Administrator.

SEC. 2. *Expected shipments.*—At or before noon on Tuesday of each week every member of the industry receiving live poultry in carloads, truck loads exceeding three thousand (3,000) pounds, or express shipments exceeding fifteen hundred (1,500) pounds shall make to the code supervisor a written report setting forth the amount of his expected receipts for the balance of the week, the actual numbers of the cars expected, and such other information relating to receipts or kind of poultry as the code supervisor shall require.

No member of the industry shall sell, unload, or deliver poultry received during the week which has not been reported as required above, except as provided for in approved rules of this code supervisor.

SEC. 3. *Listing sales prices.*—Every member of the industry shall submit a weekly report to the code supervisor. Such report shall show the range of daily prices and volume of sales for each kind, grade, or quality of produce sold by the member of the industry during the reported week.

SEC. 4. *Modification.*—This code and all the provisions thereof are expressly made subject to the right of the President of the United States, in accordance with the provisions of subsection (*b*) of section 10 of the act, from time to time, to cancel or modify any order, approval, license, rules, or regulation issued under said act.

This code, except as to provisions required by the act, may be modified on the basis of experience or changes in circumstances, such modifications to be based upon application to the Secretary and/or the Administrator and such notice and hearing as he shall specify, and to become effective on approval of the Secretary and/or the Administrator.

SEC. 5. *Licenses and marketing agreements.*—If any license is hereafter issued or any marketing agreement hereafter executed, pursuant to provisions of the Agricultural Adjustment Act, containing provisions covering the subject matters referred to in subclauses (1) to (7), inclusive, of section 1 of the Executive Order No. 6551 of January 8, 1934, then to that extent such license and/or marketing agreement shall supersede such provisions of this code.

SEC. 6. *Monopolies, etc.*—No provision of this code shall be so applied as to permit monopolies or monopolistic practices, or to eliminate, oppress, or discriminate against small enterprises.

SEC. 7. *Effective date.*—The code shall become effective on the second Monday after its approval by the President.

3. EXECUTIVE ORDER APPROVING LIVE POULTRY CODE

EXECUTIVE ORDER

APPROVAL OF CODE OF FAIR COMPETITION FOR THE LIVE POULTRY INDUSTRY OF THE METROPOLITAN AREA IN AND ABOUT THE CITY OF NEW YORK

Whereas, the Secretary of Agriculture and the Administrator of the National Recovery Act having rendered their separate reports and recommendations and findings on the provisions of said code, coming within their respective jurisdictions, as set forth in the Executive Order No. 6182 of June 26, 1933, as supplemented by Executive Order No. 6207 of July 21, 1933, and Executive Order No. 6345 of October 20, 1933, as amended by Executive Order No. 6551 of January 8, 1934;

Now, therefore, I, FRANKLIN D. ROOSEVELT, President of the United States, pursuant to the authority vested in me by title I of the National Industrial Recovery Act, approved June 16, 1933, and otherwise, do hereby find that:

1. An application has been duly made, pursuant to and in full compliance with the provisions of title I of the National Industrial Recovery Act, approved June 16, 1933, for my approval of a code of fair competition for the live poultry industry in the metropolitan area in and about the City of New York; and,

2. Due notice and opportunity for hearings to interested parties have been given pursuant to the provisions of the act and regulations thereunder; and,

3. Hearings have been held upon said code, pursuant to such notice and pursuant to the pertinent provisions of the act and regulations thereunder; and,

4. Said code of fair competition constitutes a code of fair competition, as contemplated by the act and complies in all respects with the pertinent provisions of the act, including clauses (1) and (2) of subsection (*a*) of section 3 of title I of the act; and,

5. It appears, after due consideration, that said code of fair competition will tend to effectuate the policy of Congress as declared in section 1 of title I of the act.

Now, therefore, I, FRANKLIN D. ROOSEVELT, President of the United States, pursuant to the authority vested in me by title I of the National Industrial Recovery Act, approved June 16, 1933, and otherwise, do hereby approve said Code of Fair Competition for the Live Poultry Industry in the Metropolitan Area in and about the City of New York.

FRANKLIN D. ROOSEVELT,
President of the United States.

THE WHITE HOUSE,
April 13, 1934.

4. REPORTS TO THE PRESIDENT RECOMMENDING APPROVAL OF THE LIVE POULTRY CODE

A. Report of the Secretary of Agriculture

AGRICULTURAL ADJUSTMENT ADMINISTRATION
LETTER OF TRANSMITTAL

April 10, 1934.

The President,
The White House.

Dear Mr. President: I have the honor to submit the following:

1. There is transmitted herewith a code of fair competition for the live poultry industry of the metropolitan area in and about the City of New York, which I recommend for your approval and which the National Recovery Administrator recommends for your approval with reference to the labor provisions thereof. There accompanies the code the report of the Administrator of the Agricultural Adjustment Act, the report of the Administrator of title I of the National Industrial Recovery Act, and a true, correct, and complete stenographic report of all evidence introduced at a public hearing on said code, held pursuant to section 3 (a), title I of the National Industrial Recovery Act.

2. By virtue of Executive Order No. 6182, of June 26, 1933, as supplemented by Executive Order No. 6207, of July 21, 1933, and Executive Order No. 6345, of October 20, 1933, as amended by Executive Order No. 6551, of January 8, 1934, which, pursuant to title I of the National Industrial Recovery Act of June 16, 1933 (Public, No. 67, 73rd Congress), delegated to me, as Secretary of Agriculture, certain of the powers vested in the President of the United States by the aforesaid act, and after considering the aforesaid code of fair competition and a true, correct, and complete stenographic report of all evidence introduced

at such public hearing, and being fully advised in the premises, I make the following findings:

1. That an application has been duly made by the New York Live Poultry Commission Merchants Association, the Live Poultry Slaughterhouse Association, Inc., of New York, and the Merchants Association for Live Poultry, Inc., of New York, pursuant to and in full compliance with the provisions of title I of the National Industrial Recovery Act, approved June 16, 1933, for the approval of the President, of the Code of Fair Competition for the Live Poultry Industry of the Metropolitan Area of New York. Said New York Live Poultry Commission Merchants Association, Live Poultry Slaughterhouse Association, Inc., of New York, and Merchants Association for Live Poultry, Inc., of New York, and the advisory body provided for in such code, are truly representative of the industry, and no inequitable restrictions on admission to membership are imposed by them.

2. That the live poultry industry of the metropolitan area in and about the City of New York, covered by such code, is included within the trades, industries, or subdivisions thereof enumerated in section II of Executive Order No. 6551, of January 8, 1934 (amending an Executive Order No. 6182, of June 26, 1933, as supplemented by Executive Order No. 6207, of July 21, 1933, and Executive Order No. 6345, of October 20, 1933).

3. That the provisions of the code establishing standards of fair competition (a) are regulations of transactions in or affecting the current of interstate and/or foreign commerce and (b) are reasonable.

4. That the code is not designed to promote monopolies or to eliminate or oppress small enterprises and will not operate to discriminate against them and will not permit monopolies or monopolistic practices.

5. That the code will not prevent an individual from pursuing the vocation of manual labor and selling or trading the products thereof nor prevent anyone from marketing or trading the produce of his farm.

6. That due notice and opportunity for hearing, in connection with the aforesaid code, has been afforded interested parties, in accordance with title I of the National Industrial Recovery Act and applicable regulations issued thereunder.

7. That said code will tend to effectuate the declared policy of title I of the National Industrial Recovery Act as set forth in section 1 of said act in that the terms and provisions of such code tend to: (a) Remove obstructions to the free flow of interstate and foreign commerce which tend to diminish the amount thereof; (b) to provide for the general welfare by promoting the organization of industry for the purpose of cooperative action among trade groups; (c) to eliminate unfair competitive practices; (d) to promote the fullest possible utilization of the present productive capacity of industries; (e) to avoid undue restriction of production (except as may be temporarily required); (f) to increase the consumption of industrial and agricultural products by increasing purchasing power; and (g) otherwise to rehabilitate industry and to conserve natural resources.

8. That said code, when approved by the President, will constitute a code of fair competition for the live poultry industry of the metropolitan area in and about the City of New York within the meaning of section 3 (a) of title I of the National Industry Recovery Act.

Respectfully,

H. A. WALLACE,
Secretary.

B. Report of the Administrator for Industrial Recovery

National Recovery Administration

Letter of Transmittal

April 9, 1934.

The President,
The White House.

Sir: This is the report on those portions of the Code of Fair Competition for the Live Poultry Industry of the Metropolitan Area in and about the City of New York which, pursuant to the relative Executive orders, are subject to the jurisdiction of the Administrator for Industrial Recovery. A public hearing was conducted on January 17, 1934, in accordance with the provisions of the National Industrial Recovery Act and Executive Order dated June 26, 1933.

General

The functions of this industry include the business of selling, purchasing for resale, transporting or handling, and/or slaughtering live poultry from the time such poultry comes into the New York Metropolitan Area to the time it is first sold in slaughtered form.

The code was submitted and sponsored by the New York Live Poultry Slaughter House Association, Incorporated, consisting of approximately 350 wholesale firms; the Retail Merchants' Association of the Live Poultry Industry, Incorporated, of New York City, representing approximately 150 retail shops; and the New York Live Poultry Commission Merchants' Association, Incorporated, consisting of approximately 21 commission agencies. These three associations comprise in their membership the leaders of the

industry in and about the metropolitan area of the City of New York and represent about 90 percent of the live poultry industry by numbers and by volume of business. It is estimated that the industry, as defined in the code, comprises about 521 commission merchants and slaughterhouse operators supplying the consuming public with practically all of the live poultry coming into the metropolitan area from 41 States, doing an aggregate annual business of approximately $90,000,000.00.

From the information received, in the year 1933 there were employed in this industry in the neighborhood of 1,610 employees. The industry has been sorely depressed due not only to the prevailing economic conditions of the past few years, but also to the many unfair methods of competition that have prevailed, and to the many evils and abuses that have developed as a result of the uncontrolled methods of doing business. These conditions have, in the period of from 1929 to date, reduced the number of employees by approximately 40 percent. It is believed that by the adoption of this code, the economic conditions within the industry will be substantially improved and the industry in general will be compelled to operate on a more efficient and legitimate basis. The report of the Research and Planning Division indicates that this code will effectuate an increase in wages of about 20 percent in this industry. Likewise, the report of the Research and Planning Division indicates that the code will establish an increase in employment of 19.2 percent.

The administration of the code, as designed, is to be placed in the control of a code supervisor selected by the Secretary of Agriculture and the Administrator of the National Recovery Administration with the approval of the advisory committee of the industry. The industry advisory committee consists of 15 employers representing fairly and equitably the branches of the industry and localities included within the code area. The code supervisor is given powers and duties, subject to the disapproval of the Secre-

tary and/or the Administrator, and is himself subject to removal at any time by those officials. The proposal for concentrated authority is in response to the unanimous demand of the industry itself.

The code contains provisions for the establishment of a labor advisory committee, subject to the approval of the Administrator, and such additional advisory committees as may be necessary to aid the code supervisor in the administration of the code.

Provisions as to Hours

The code provides for a maximum forty-hour week, a normal day not to exceed eight (8) hours except Thursdays and Saturdays when it shall not exceed twelve (12) hours, with the following exceptions:

(*a*) Executive, managerial, and/or professional employees and outside salesmen receiving regularly thirty-five dollars ($35.00) per week or more.

(*b*) A maximum forty-eight hour week for slaughterhouse employees.

(*c*) During the Jewish holidays and legal holidays, employees may be permitted to work in excess of the above hours, provided the total number of such days shall not exceed forty-two (42) in any one calendar year.

(*d*) A complete report shall be made monthly to the code supervisor on the number of hours worked by employees, pursuant to (*c*) above, also the number of hours worked by part-time, emergency, or temporary employees.

(*e*) No employee shall be permitted to work more than six days in any one week, except that an employer may use not over two of his employees on the seventh day for the purpose of feeding live poultry.

(*f*) Employees on emergency maintenance or repair work involving break-downs or protection of life or prop-

erty are permitted to work in excess of the maximum hours set forth herein, provided that such hours above the maximum are compensated at the rate of time and one-third.

Provisions as to Wages

The minimum rate of pay established for each employee is 50 cents per hour with the following exceptions:

(*a*) Overtime work over and above the maximum hour classifications is to be paid at the rate of not less than time and one-third for such overtime; likewise, for work done on Sundays and Jewish and legal holidays.

(*b*) Article IV, Section 3, provides that the code supervisor, the labor advisory committee, and the industry advisory committee shall submit a report to the Administrator within six months after the effective date of this code setting up an equitable adjustment of all wages above the minimum.

(*c*) The code establishes that a minimum rate of pay shall apply irrespective of whether an employee is actually compensated on a time-rate, piece-rate, or other basis.

(*d*) Male and female employees performing substantially the same work shall receive the same rates of pay.

General Labor Provisions

(*a*) This code prohibits the employment of any persons under 16 years of age and under 18 years of age at occupations hazardous and/or dangerous to health.

(*b*) The code contains the provisions that every employer shall provide for the safety and health of employees during the hours and places of their employment. Standards of safety and health shall be submitted by the code supervisor to the Administrator within six months after the effective date of this code.

(*c*) Terms of employment shall not, by reason of relationship of employer and employee other than that of marriage, be exempt from the provisions of this code.

(*d*) This code contains the standard clause affecting handicapped workers as required by Executive order under date of February 17, 1934.

(*e*) The posting of the code shall be in accordance with such rules and regulations as defined and issued by the Administrator.

(*f*) It is believed that under article V, section 9, employment will be increased to the extent of 210 or more persons in the industry and will standardize the cost of marketing and selling.

COMPLIANCE WITH MANDATORY PROVISIONS

The Administrator finds that:

(*a*) The code as recommended complies in all respects and without limitation to the provisions of—

> Subsection (*a*) of section 7 and subsection (*b*) of section 10 of the National Industrial Recovery Act.

Accordingly, I recommend the approval of the Code of Fair Competition for the Live Poultry Industry of the Metropolitan Area in and about the City of New York, hereof, to the extent of my jurisdiction, as stated in your Executive order of June 26, 1933.

Respectfully yours,

HUGH S. JOHNSON,
Administrator.

5. THE CONSPIRACY STATUTE (35 Stat. 1096; Criminal Code, section 37; U. S. C. Title 18, § 88).

Conspiring to commit offense against United States. If two or more persons conspire either to commit any offense against the United States, or to defraud the United States in any manner or for any purpose, and one or more of such parties do any act to effect the object of the conspiracy, each of the parties to such conspiracy shall be fined not more than $10,000, or imprisoned not more than two years, or both.